



# State and Federal Affairs Division

**TO:** Members, House Energy and Technology Committee

**FROM:** Arnold Weinfeld, Director

**RE:** SB 522

**DATE:** June 15, 2005

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Mr. Chair; members of the House Energy and Technology Committee, my name is Arnold Weinfeld, Director of State and Federal Affairs for the Michigan Municipal League. Thank you for the opportunity to appear before you today on Senate Bill 522.

The Michigan Municipal League and its member cities and villages is opposed to SB 522 in its current form. Let's be clear, the reason we are here today is because a local unit of government exercised its right of control granted to it under the Michigan constitution and state law, was challenged in the highest court of our state and won. Now the loser is seeking redress through the state legislature.

Senate Bill 522 however would go much further than simply address this one particular oil company's problem. Senate Bill 522 would prevent local units of government from exercising their constitutional right of local control not only on the matter at hand, a petroleum pipeline, but on whether any utility pipelines such as gas and telecommunications are sited within the rights of ways of limited access highway running through their jurisdictions. This goes far beyond addressing the situation faced by Wolverine Pipeline. To that end, we urge you to limit the legislation to petroleum pipelines.

At the end of last session, similar legislation was introduced and passed by the House. At that time, the League recognized the public policy issues presented by the legislation and simply asked that such a discussion be held with all parties present, taking time to explore all of the facets surrounding the issue. We were told that we would have that opportunity. Between now and then, we have sat down with our local government partners to craft a list of principles that we believe should form the basis for these discussions. These are part of the attachments to my testimony. Unfortunately, we find this legislation to be on a similar fast

track. Rather, the legislature seems to be responding to oil company claims that legislation must be passed quickly to get the job started so we can get tanker trucks off the road and bring gas prices down.

Let's explore these claims for a moment. First, do we really believe this will lead to less tanker trucks on the road? How then will the product be shipped once it reaches its destination point. Have we discovered a new way of shipping after the product reaches the terminal? Unless you build pipelines and terminals across the entire state there will continue to be a need for tanker trucks and given our insatiable appetite for petroleum, no doubt more tanker trucks over time. As for the claim of cheaper gas prices, these are the same folks that have no answers for pump prices that are lower during the weekday and mysteriously higher on the weekend or go up and down by as much as 10-15 cents a day when market prices barely move by a penny.

The ideas we have put forth are based on the underlying premise of local control that has been a long-standing facet of Michigan's constitutional and statutory history. Local units of government have the primary responsibility to protect the public health and safety of their communities. Michigan law widely recognizes this responsibility and authority and the current law regarding the use of rights-of-way appropriately serves to uphold and balance the responsibility of local governments regarding public health and safety. Should this legislation pass, limited access highways will clearly be the siting area of choice, whether or not they are the best location. The bottom line is that local units should continue to have the ability to review and reject a permit application.

That being said, perhaps it would be useful to go back in time to an event similar to the one before us now, where local units rejected the idea of a state highway from being built through their jurisdictions. The time was the 1960's, the state highway; 696. At that time local communities objected to the proposal to construct a highway that would split communities and neighborhoods in half. The solution was a state law that allowed for an arbitration process to be put in place to resolve such disputes. Act 12 of 1967's extra session may provide the basis for the same type of process to be put in place in the circumstances facing us today with SB 522. Included in my material is a copy of that act. Rather than allowing Wolverine or other utilities to run rough shod over local control and destroy the essence of what has made Michigan a great state for over 150 years, we urge your consideration of such an idea.

As I stated previously, the Michigan Municipal League is not averse to having a discussion on the process surrounding the siting of petroleum pipelines as we understand the economic development implications. We still believe this is best accomplished by taking time to explore the issue, starting with whether locating pipelines such as the one proposed by Wolverine or any other utility, along our highways is the most appropriate place, and how local units, state agencies and the private sector can work together. Unfortunately, the passage of SB 522 in its current form will only lead to continued opportunities for litigation,

helping no one. We have taken the time to come up with a set of ideas and now ask that you take the time as policy makers to give them your full consideration in the hopes of creating a far better product than the current Senate Bill 522. Until such time, we will continue to oppose the legislation. Thank you.



# State and Federal Affairs Division

**TO:** All Interested Parties

**FROM:** Arnold Weinfeld, Director, SFAD

**RE:** SB 522 – Wolverine Pipeline; Principles

**DATE:** 5/23/05

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1. Limit bill to petroleum pipelines only on interstate limited access highways. To go a step further the bill should be limited to address the current situation.
  2. Ensure that language is included still giving municipalities the ability to reject based on protecting the health, safety and welfare of its residents. If municipality objects involve an independent siting committee similar to what already exists in state law for disputes involving interstate highway routes (Act 12 of 1967).
  3. If a new pipeline route is to be completed, then the legislation should include language on how current routes are to be taken off line and dismantled.
  4. Include a specific maintenance schedule and annual maintenance fees.
  5. Legislation should establish minimum engineering for construction and monitoring/maintenance including but not limited to: 1) establishing minimum setbacks; 2) increasing engineering requirements as population density increases; 3) place burden of proof on industry to establish compliance in planning and construction phase.
  6. Include a provision requiring pipeline company to fully reimburse local units for costs associated with responding to any actual events.
  7. Require company to insure for any incidents.
  8. Application must be reviewed by MDOT and DEQ.

**ARBITRATION OF DISPUTES INVOLVING INTERSTATE HIGHWAY ROUTES**  
**Act 12 of 1967 (Ex. Sess.)**

AN ACT to provide for arbitration of disputes involving the determination of routes for interstate highways through municipalities and to authorize the acquisition of property therefor.

History: 1967, Ex. Sess., Act 12, Imd. Eff. Jan. 16, 1968.

*The People of the State of Michigan enact:*

**252.151 Arbitration of interstate highway route locations; definitions.**

Sec. 1. As used in this act:

- (a) "Board" means the highway location arbitration board.
- (b) "Department" means the department of state highways.
- (c) "Commission" means the state highway commission or its designated representative.
- (d) "Interstate highway" means a highway route on the interstate system as defined in and designated pursuant to Title 23 of the United States Code, prior to the effective date of this act.
- (e) "Affected municipality" means a city or village in which a proposed interstate highway route or alternate route would wholly or partly lie.

History: 1967, Ex. Sess., Act 12, Imd. Eff. Jan. 16, 1968.

**252.152 Review of highway location; arbitration; procedure; notice; voluntary arbitration.**

Sec. 2. After review of proposed interstate highway routes, and following preliminary negotiations, when it shall be deemed necessary by the department to resolve disputes concerning the routes through 1 or more municipalities, to resort to final arbitration measures provided by this act, the commission shall send by registered mail to the clerk of each affected municipality notice of the interstate highway route location proposed by the department in the disputed matter and a notice that arbitration proceedings are initiated. Within 30 days thereafter, if the governing body of each affected municipality does not consent by resolution either to the approval of the location or to voluntary binding arbitration as provided in this section, the commission shall request in writing that a highway location arbitration board be authorized to make a final determination of the route. The governing body of any affected municipality which does not consent to the route location by resolution may agree with 1 or more other affected municipalities to voluntary binding arbitration on the issue of route location according to terms approved by the commission; in which case such municipalities shall no longer be considered affected municipalities within the terms of this act. The governor, on the date of the request, shall send notice of the request by registered mail to the clerk of each affected municipality as determined by the commission. The commission's request shall name all the affected municipalities.

History: 1967, Ex. Sess., Act 12, Imd. Eff. Jan. 16, 1968.

**252.153 Highway location arbitration board; members, qualification, appointment.**

Sec. 3. A highway location arbitration board shall consist of 3 members to be appointed by agreement of all affected municipalities from a list of members of the national panel of arbitrators to be submitted to the governor by the American arbitration association. The governor shall include a copy of the list of such members with the notice of the request he sends to the clerk of each affected municipality. If the affected municipalities do not agree on the arbitrators within 30 days of the date of the request, the governor shall choose the arbitrators. It shall function in the executive office and by majority vote shall make the determinations authorized by this act.

History: 1967, Ex. Sess., Act 12, Imd. Eff. Jan. 16, 1968.

**252.154 Highway location arbitration board; convening time; notice to affected municipalities.**

Sec. 4. The governor shall forthwith set a time and place for convening the board not less than 25 nor more than 35 days from the date of the commission's request. The governor shall send notice by registered mail to the clerk of each affected municipality at least 14 days before the date set for convening the board.

History: 1967, Ex. Sess., Act 12, Imd. Eff. Jan. 16, 1968.

**252.155 Highway location arbitration board; submission of maps by municipality, time; content; copies.**

Sec. 5. Within 25 days of the date of the commission's request an affected municipality may submit maps of 1 or more proposed locations showing the approximate right of way limits and any other information to the commission. The commission shall provide each member of the board a copy of such maps and information, as well as maps and information relative to all locations proposed by the department.

History: 1967, Ex. Sess., Act 12, Imd. Eff. Jan. 16, 1968.

**252.156 Highway location arbitration board; duties; additional maps and information; approval of location, time; notice.**

Sec. 6. The board shall convene at the time and place set by the governor and shall consider the submitted maps and information and shall hear representatives of the department and the affected municipalities and shall hear such other persons as are parties in interest. The department and the affected municipalities, may, and when so requested by the board shall, submit additional maps and information relative to any proposed location for consideration by the board. Within 60 days of the date it convenes, the board shall approve 1 of the locations. The approval is final and binding upon the department and the affected municipalities. The commission shall send notice of the approval by registered mail to the clerks of the affected municipalities.

History: 1967, Ex. Sess., Act 12, Imd. Eff. Jan. 16, 1968.

**252.157 Approval of board; consent to designation of route; acquisition of property.**

Sec. 7. Approval by the board is deemed to be consent to designating the route as an interstate highway and, notwithstanding any provision to the contrary in any law, the department may forthwith proceed to acquire property, by condemnation or otherwise, deemed by the department to be necessary to provide for the completion and successful operation of the interstate highway and appurtenant facilities.

History: 1967, Ex. Sess., Act 12, Imd. Eff. Jan. 16, 1968.

**252.158 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.**

Compiler's note: The repealed section pertained to an appropriation for expenses of highway arbitration boards.



OFFICE OF MAYOR AND  
CITY COUNCIL

City of Farmington Hills

**RESOLUTION**  
**Opposing Senate Bill 522**

WHEREAS, the Michigan State Senate with a vote of 29-9 adopted SB 522 on June 9, 2005, a bill that would prevent the City of Farmington Hills and other municipalities from having any say on whether or not utilities are placed within the rights of ways of limited access highways, which would include I-275 and I-696 in Farmington Hills; and

WHEREAS, the ramification of SB 522 is the continuing incremental assault on the ability of local governments to control where utilities are placed. If this legislation is passed, it may set a precedent whereby pipeline oil and utility companies may try to eliminate local control of all state-owned and/or funded roads; and

WHEREAS, the proponents of the bill are taking action to the issue in response to the Michigan Supreme Court decision where the City of Lansing argued that the pipeline proposed was within close proximity to multiple city water wells, a day care facility, a major business district, and many neighborhoods, thus posing a public health and safety risk for concentrated populations. Based on current statute, the City of Lansing then won the Supreme Court case. However, pipeline oil and utility companies are now attempting to change the law through SB 522 that would eliminate local control; and

WHEREAS, this is a statewide issue and we do not want pipelines placed next to sensitive areas without any voice in the matter; and


WHEREAS, passage of the bill would reverse the Michigan Supreme Court decision affirming local control in such matters, effectively shifting local authority to pipeline oil and utility companies; and

WHEREAS, local officials have the primary responsibility and obligation to protect the health, safety and welfare of our citizens; and

WHEREAS, it is vitally important to voice opposition to this bill immediately, as it is on the fast track and has been referred to the House Committee on Energy and Technology for a hearing on Wednesday, June 15 at 9 a.m.

NOW, THEREFORE, BE IT RESOLVED that the City of Farmington Hills opposes Senate Bill 522 and asks all legislators to oppose this legislation that would remove the ability of local officials to protect the health, safety and welfare of citizens in their communities, a right that has been affirmed time and again by the Michigan Supreme Court.

BE IT FURTHER RESOLVED that copies of this Resolution be forwarded to Governor Jennifer Granholm, State Senator Gilda Jacobs, State Representative Aldo Vagnozzi, all members of the State House of Representatives, State Senate, and the Michigan Municipal League. Adopted this 13th day of June, 2005

  
Vicki Barnett, Mayor

I, Kathryn A. Dornan, City Clerk of the City of Farmington Hills, Michigan do hereby certify that the foregoing is a true and correct copy of a Resolution unanimously adopted by the Farmington Hills City Council at its regular meeting held June 13, 2005.

Kathryn A. Dornan, City Clerk

**RESOLUTION OF THE  
DCC BOARD OF DIRECTORS**

**TO OPPOSE SB 522  
REGARDING UTILITY COMPANIES SITED WITHIN THE RIGHTS OF WAYS OF LIMITED  
ACCESS HIGHWAYS RUNNING THROUGH THEIR JURISDICTIONS**

**June 2, 2005**

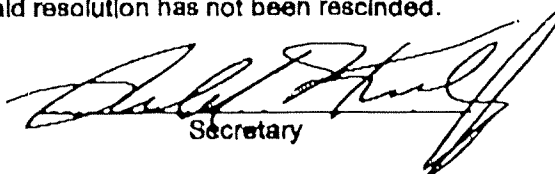
- WHEREAS, the Downriver Community Conference (DCC), a consortium of nineteen Downriver communities in Wayne County whose total population exceeds 500,000, has joined in an effort to improve local government and enhance the quality of life for area residents through municipal cooperation; and
- WHEREAS, the Senate is now moving forward with SB 522, a bill that would prevent local governments from having any say on whether any utility companies are sited within the rights of ways of limited access highways running through their jurisdictions; and
- WHEREAS, limited access highways are essentially state and federal roads which have limited access, or on-and-off ramps; and
- WHEREAS, the ramification of SB 522 is the continuing incremental assault on the ability of local governments to have control in siting utility companies. If this legislation is passed, there is great concern about the future precedent that pipeline oil and utility companies may try to eliminate local control of all state-owned and/or funded roads; and
- WHEREAS, the proponents of the bill are taking action to the issue as a response to the Michigan Supreme Court decision in which the City of Lansing argued that the pipeline would be laid within close proximity to multiple city water wells, a day care facility, a major business district, and many neighborhoods, thus, posing a public health and safety risk for concentrated populations. Based on current statute, the City of Lansing then won the Supreme Court case. Therefore, pipeline oil and utility companies are attempting to change the law to allow no local control; and
- WHEREAS, this is a statewide issue and we do not want pipelines placed next to sensitive areas without any voice in the matter; and
- WHEREAS, passage of the bill would reverse the Michigan Supreme Court decision affirming local control in such matters, effectively shifting local authority to pipeline oil and utility companies; and
- WHEREAS, we need to remind the Senate that local officials have the primary responsibility and obligation to protect the health, safety and welfare of citizens in their communities; and
- WHEREAS, immediate action is required as this bill comes up in the Senate Transportation Committee on Tuesday, June 7<sup>th</sup>.

NOW THEREFORE BE IT RESOLVED, that the DCC Board of Directors opposes SB 522, and supports all efforts to express local opposition including assistance through the Michigan Municipal League to develop language that will ensure that local units of government have a say in the process.

BE IT FURTHER RESOLVED, that this resolution be sent to our State Legislators and the Michigan Municipal League.

**CERTIFICATION**

The undersigned duly qualified Board Secretary of the Downriver Community Conference certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Board of the Downriver Community Conference held on June 2, 2005, and that said resolution has not been rescinded.

  
Secretary



**Arnold Weinfeld**

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**From:** Paul [PMoore@VillageofBirchRun.com]  
**Sent:** Friday, June 03, 2005 2:02 PM  
**To:** senrbasham@senate.michigan.gov; senjgilbert@senate.michigan.gov;  
ofcmgoschka@senate.michigan.gov; senwkulpers@senate.michigan.gov;  
senbleland@senate.michigan.gov  
**Cc:** Arnold Weinfeld; Joe Fivas  
**Subject:** Senate Bill 522

Honorable Senators,

The purpose of this email is to express my **opposition** to Senate Bill 522. This Bill would have long lasting ill effects across the entire state. I also understand that passage of this Bill would reverse the Michigan Supreme Court decision affirming local control in such matters. As a local municipality, the Village believes that we should have the primary responsibility and obligation to protect the health, safety, and welfare of our citizens and not have this control taken away from us. As a member of the Michigan Municipal League (MML), the Village asks that our Senators work with the MML to develop language that will ensure that local units of government, such as the Village of Birch Run, have a say in this process. Please vote **NO** on Tuesday, June 7, 2005 on Senate Bill 522. Thank you for your time and attention to this matter.

**Paul T. Moore**

DDA Director/Village Manager

Village of Birch Run

12060 Heath Street

Birch Run, MI 48415

Phone 989-624-5711

Fax 989-624-9681

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No virus found in this outgoing message.  
Checked by AVG Anti-Virus.  
Version: 7.0.323 / Virus Database: 267.6.0 - Release Date: 6/3/2005

6/14/2005

## Arnold Weinfeld

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**From:** Sue Hillebrand [shillebrand@twp.northville.mi.us]  
**Sent:** Friday, June 03, 2005 4:08 PM  
**To:** senrbasham@senate.michigan.gov; senjgilbert@senate.michigan.gov;  
ofcmgoschka@senate.michigan.gov; senwkuipers@senate.michigan.gov;  
senbleland@senate.michigan.gov  
**Cc:** Arnold Weinfeld; Ofc. B. Patterson  
**Subject:** SB 522

Dear Honorable Senators:

The Charter Township of Northville, Wayne County Michigan is opposed to SB 522 which would prevent local governments from having any say on whether any utilities are sited within the rights-of-ways of limited access highways running through our jurisdiction.

This is a statewide issue and we would respectfully ask if you would want a pipeline installed next to your homes without any voice in the matter. As local officials, we have the primary responsibility and obligation to protect the health, safety and welfare of our citizens and would ask your consideration in helping to preserve our ability to govern our local communities. The passage of SB 522 would, in essence, reverse the Michigan Supreme Court decision affirming local control over such matters and effectively shift that local authority to big oil and utility companies.

Thank you for considering our serious concerns and we hope that you will work with the Michigan Townships Association and the Michigan Municipal League to develop language that will ensure that local units of government have a say in the process.

Sincerely,

Sue A. Hillebrand, C.M.C.  
Clerk  
Charter Township of Northville  
44405 Six Mile Road  
Northville, MI 48167

6/14/2005

Municipal Building (906) 753-6228  
Dept. of Public Works (906) 753-4769  
Police Dept. (906) 753-4006  
FAX (906) 753-4726  
TDD (800) 649-3777

Mayor Peter E. Getzen

# City of Stephenson

W628 Samuel St. • PO Box 467 • Stephenson, MI 49887-0467

June 3, 2005

Senator Michelle McManus  
P.O. Box 30036  
Lansing, MI 48909-7536

RE: SB 522

Dear Ms. McManus:

We strongly urge you to vote against this proposed bill that would prevent us, as a local government, from having any say on whether any utilities are sited within our rights of ways of limited access highways running through our jurisdiction.

We believe it is very important that we, as local officials, have the primary say on this matter. We are the ones that have the primary responsibility and obligation to protect the health, safety and welfare of citizens in our community.

We request that you work with the Michigan Municipal League to develop language that will ensure that local units of government have a say in the process.

Sincerely,  
CITY OF STEPHENSON

Peter E. Getzen  
Mayor

## Arnold Weinfeld

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**From:** Helen Foster [hf@c-w-w.org]  
**Sent:** Monday, June 06, 2005 12:08 PM  
**To:** Hon. Senator Michelle McManus; Hon. Senator Leland; senwkuipers@senate.michigan.gov; ofcmgoschka@senate.michigan.gov; senjgilbert@senate.michigan.gov; Hon. Senator Basham  
**Cc:** Joe Fivas; Arnold Weinfeld  
**Subject:** Your June 7 review of SB 522

Honorable Senators:

**It is with urgency that we ask you to defeat SB 522 or at minimum work with the MML to develop language that will ensure safety and local control.** Please let me first introduce the committee members to the Conference of Western Wayne -- CWW.

We represent 18 Western Wayne County municipalities with a population base of 700,000 and are home to some of the most essential businesses in Michigan. At the conclusion of this email you will find a list of our member communities. Our Board of Directors consists of the 18 Chief Elected Officials. They are a Board that works in unity and with a collective voice.

We are in agreement that it would create a serious **public safety problem** if **all utilities** avoid local control -- including safety requirements on limited access highways. Trying to solve the 'Wolverine pipeline problem' with SB 522 puts your constituents and your family at risk. Who is going to respond when there is a problem and the local responders do not even have a proper utility map. Communities throughout the state have serious concerns about the hazards in this bill. It is not just the City of Lansing with an objection; it is a statewide issue.

All of us urge you to rethink the scope of the language in SB 522. Do not put citizens in the State of Michigan in harms way.

We look forward to hearing from you. Our names and communities follow, but should you have any questions or comments, please contact:

Helen Foster  
CWW Deputy Director  
39293 Plymouth Road  
Suite 101  
Livonia, MI 48150  
hf@c-w-w.org  
734.953.8834  
Thank you,

### CWW Board of Directors

Mayor Fielder, City of Belleville  
Supervisor Tom Yack, Canton Charter Township  
Mayor Michael Guido, City of Dearborn  
Mayor Daniel Paletko, City of Dearborn Heights  
Mayor Jaylee Lynch, City of Garden City  
Supervisor John Mitchell, Huron Charter Township  
Mayor Hilliard Hampton, City of Inkster  
Mayor Jack Engebretson, City of Livonia  
Mayor Chris Johnson, City of Northville  
Supervisor Mark Abbo, Northville Charter Township  
Mayor Stella Greene, City of Plymouth

6/14/2005

Supervisor Richard Reaume, Plymouth Charter Township  
Supervisor Miles Handy, Redford Charter Township  
Mayor Alan Lambert, City of Romulus  
Supervisor John Vawters, Sumpter Township  
Supervisor Cindy King, Van Buren Charter Township  
Mayor Al Haidous, City of Wayne  
Mayor Sandra Cicirelli, City of Westland



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HAROLD L. HAUGH

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CITY MANAGER  
STEPHEN A. TRUMAN

June 6, 2005

Senator Michael Switalski  
Senator Michelle McManus  
Senator Raymond Basham  
Senator Jud Gilbert  
Senator Mike Goschka  
Senator Wayne Kulpers  
Senator Burton Leland  
P.O. Box 30036  
Lansing, MI 48909-7536

RE: Senate Bill 522

Dear Senator,

On June 7, 2005 the Transportation Committee of the Senate will hold hearings on SB 522. This bill would prevent local governments from having input on whether any utilities are sited in their jurisdiction, as it relates to limited access highways.

The bill as presented provides the opportunity for utilities to be located next to residential structures (i.e. pipelines) without a community, or its residents having a voice. The present system has worked well, and allowed local officials to exercise their primary responsibility and obligation to protect the health, safety, and welfare of its citizens.

We hope you will develop language in this act, with the assistance of the Michigan Municipal League, to ensure that local governments continue to have a say in the process.

I would like to thank you in advance for your cooperation.

Sincerely,

Stephen A. Truman  
City Manager  
29777 Gratiot  
Roseville, MI 48066  
(586) 445-5410

SAT/yk

cc: Mayor and Council